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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/649,594	08/29/2000	Ryozo Nishimura	001090	8720
38834	7590	12/01/2005	EXAMINER	
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP 1250 CONNECTICUT AVENUE, NW SUITE 700 WASHINGTON, DC 20036			DUNN, MISHAWN N	
			ART UNIT	PAPER NUMBER
			2616	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/649,594

Applicant(s)

NISHIMURA ET AL.

Examiner

Mishawn N. Dunn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-13 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-3 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Baxter (US Pat. No. 5,029,015).
4. Consider claims 1 and 3. Baxter teaches a video recording/reproducing apparatus with tuner, comprising of a tuner for inputting a plurality of channels of radio frequency television signals and outputting a base-band television signal of designated channel (col. 4, lines 8-39; fig. 1); a modulator for modulating the base-band television signal outputted from said tuner (col. 4, lines 21-39; fig. 1); an outputter for outputting the radio frequency television signal modulated by said modulator to a video displaying apparatus with tuner (col. 4, lines 21-39; fig 1); a searcher for searching an unused channel from among a plurality of channels (figs. 3 and 4); a first setter for setting a frequency of the unused channel detected by said searcher to said modulator (col. 5, line 7 – col. 7, line 4); and a presetter for presetting a used channel included in the

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plurality of channels to said tuner after completing a frequency setting operation by said first setter (col. 4, lines 23-28).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter (US Pat. No. 5,029,015) in view of Beyers et al. (US Pat. No. 5,943,467).

7. Consider claim 2. Baxter discloses all of the claimed limitations as stated above, except an instructor for instructing suspension of a presetting operation and a disabler for disabling said presetter.

However, Beyers et al. teaches an instructor for instructing suspension of a presetting operation and a disabler for disabling said presetter in response to an instruction of said instructor (col. 7, lines 30-44; figs. 3c and 4).

***Allowable Subject Matter***

8. Claims 4-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Claims 9-13 are allowed. The following is a statement of reasons for the indication of allowable subject matter: The present invention is directed to a video recording/reproducing apparatus with tuner, comprising of a tuner, an outputter, a searcher, a first setter, and a presetter. Independent claim 9 identifies the uniquely distinct features, "a second setter for selectively setting frequencies of the predetermined channels to said modulator at a predetermined time interval when any of the predetermined channels is determined not be the unused channel by said determiner." The closest prior art, Baxter (US Pat. No. 5,029,015) and Beyers et al. (US Pat. No.5,943,467), fail to anticipate or render to the above underlined limitations obvious.

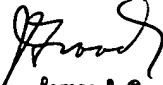
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mishawn N. Dunn whose telephone number is 571-272-7635. The examiner can normally be reached on Monday - Friday 7:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on 571-272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
James J. Groody  
Supervisory Patent Examiner  
Art Unit 262 2616